REMARKS

Claims 1-13 are all the claims pending in the application. By this Amendment, Applicant amends claim 1 to further clarify the invention. In addition, Applicant adds claims 4-13.

Preliminary Matters

The Examiner has acknowledged the claim to foreign priority and confirmed that the certified copy of the priority documents was received. In addition, the Examiner initialed references listed on Form PTO/SB/08 (modified) submitted with the Information Disclosure Statement filed on January 11, 2002. The Examiner also indicated acceptance of the Drawings filed on November 22, 2002.

Finally, Applicant amends claim 1 to fix a minor informality, noted by the Examiner. Also, Applicant amends the specification to fix minor typographical errors.

Prior Art Rejection

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,496,518 to Arai et al. (hereinafter "Arai"). Applicant respectfully traverses this rejection in view of the following remarks.

Turning to the cited art, Arai teaches an incubator for incubating the "dry-to-touch" chemical analysis film spotted with a sample liquid. The incubator has a base on which the frameless chemical analysis film is placed, an incubator cell member which is movable up and down between a lower position and an upper position and which presses a part of the upper surface of the frameless chemical analysis film against the incubator base while tightly enclosing a space around the frameless chemical analysis film in the lower position. In addition, the incubator has a first heater which heats the part of the incubator base with which the frameless

chemical analysis film is brought into contact to a first predetermined temperature and holds the same at the first predetermined temperature, and a second heater which heats the incubator cell member to a second predetermined temperature higher than the first predetermined temperature.

The Examiner contends that Arai suggests each feature of independent claim 1. These rejections are not supportable for at least the following reasons. Claim 1 recites: "a guide member which supports the pressing member for up and down movement along a guide surface thereof, and heater which heats the guide member to a predetermined temperature."

Arai teaches an incubator 12 holding a number of cells 42 with a cover 46. Each cell 42 holds a chemical analysis film 1 (col. 6, lines 33 to 39). Arai further teaches having a film pressing member 61 which presses the film 1 at the corner portions thereof. The film pressing member 61 is moved upward and downward by use of a spring 62 (col. 7, lines 6 to 22). Moreover, Arai teaches that the film pressing member 61 is guided by a guide portion 64b (Figs. 5 and 6; col. 7, lines 28 to 49).

In addition, Arai teaches two heating elements, a first heating element 48 and a second heating element 57. The first heating element is disposed on the inner side of the upper surface of the incubator base 45 to heat the portion of the incubator base 45 which contacts the frameless chemical analysis films 1 (col. 7, lines 50 to 63). The second heating element 57 is provided on the outer peripheral surface of the cell cover 46 and heats cells 42. As a result of heating the cells 42, the temperature of the incubating cell member 64 and the film pressing member 61 cannot be lowered below the incubating temperature even if the environmental temperature lowers (Fig. 5; col. 7, line 64 to col. 8, line 8; col. 11, lines 30 to 46).

In Arai, however, the second heating element is positioned on the outer surface of the cell cover 46 thereby heating the entire cell member 64 including the pressing member 61. There is no teaching or suggest that the heater heats the guide member to a predetermined temperature. In Arai, the pressing member is heated indirectly as a result of the heating the entire cell member 64. Arai, however, fails to teach or suggest heating the guide member to a predetermined temperature. In fact, in Arai's incubator, the guide member is positioned outside the cell member 64 (see Fig. 5). Accordingly, it is not heated by the heating element 57. Instead, the pressing member is heated indirectly as a result of heating the entire cell member 64.

In summary, the deficiencies of the Arai reference fall to the Examiner's burden to show inherent inclusion of the claim elements. Therefore, for all the above reasons, independent claim 1 is patentable. Claims 2 and 3 are patentable at least by virtue of their dependency on claim 1.

In addition, dependent claim 3 recites: "the pressing member is held in the dry analysis element chamber to be removable therefrom." The Examiner alleges that Arai's teachings of the cell member, which may be removed from the incubator is equivalent to the teachings of the removable pressing member as set forth in claim 3. This rejection, however, is technically inaccurate. Arai teaches removal of the cell member from the incubator for cleaning. Arai, however, does not teach or suggest removing the pressing member from the cell. In fact, the cell member is located outside the cell 42. In other words, Arai only teaches that the cell member may be removed. Arai, however, does not even remotely suggest that the pressing member may be removed from the cell chamber. In short, Arai does not teach or suggest that the cell member is in a chemical analysis chamber. For at least this additional reason, dependent claim 3 is patentably distinguishable from Arai.

New Claims

In order to provide more varied protection, Applicant adds claims 4-13. Claim 4 is patentable at least by virtue of its recitation of: "wherein the guide member is in contact with the pressing member to heat the pressing member using the heat received from the heater."

In Arai, in contrast to that in claim 4, the second heating element 57 is positioned on the outer surface of the cell cover 46 thereby heating the entire cell member 64 including the pressing member 61. There is no teaching or suggestion that the heater heats the guide member to a predetermined temperature. In Arai, the pressing member is heated indirectly as a result of the heating the entire cell member 64. Arai, however, fails to teach or suggest heating the guide member to a predetermined temperature. In fact, in Arai's incubator, the guide member is positioned outside the cell member 64 (see Fig. 5). Accordingly, it is not heated by the heating element 57. Instead, the pressing member is heated indirectly as a result of heating the entire cell member 64.

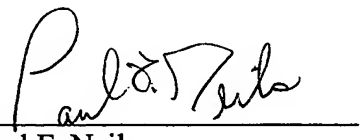
Claims 5-12 are patentable at least by virtue of their dependency on claim 4 and claim 13 is patentable at least by virtue of its dependency on claim 1.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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